

Chapter 587

Storage of Grain as Basis of Farm Credit

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CROSS REFERENCES

Uniform Warehouse Receipts Act, Ch. 74
Warehouses and grain inspection, Ch. 586

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Civil service for state employees, Ch. 240
Printing controlled by Department of Finance and Administration, 282.020
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587.010 Definitions. As used in this chapter, "department" means the State Department of Agriculture.

587.020 Purpose of chapter. The purpose and object of this chapter is to provide the owners of grain the means of warehousing or storing their grain on farms, on or near railroad right of ways and other suitable places under proper safeguards, as a basis of farm credit on the grain so stored.

587.030 Department to administer and enforce chapter. The department shall manage, control and direct the operations of the provisions of this chapter and has full power to make effective the provisions of this chapter and the rules and regulations which the department prescribes to carry out the purposes and objects of this chapter.

587.040 Powers of department. In addition to the general powers conferred by ORS 587.030 the department has the following express powers:

(1) To appoint inspectors of grain whenever petitioned so to do as provided in this chapter, prescribe the duties of such inspectors and remove them summarily whenever the Director of Agriculture deems it advisable.

(2) To make and promulgate the necessary or desirable rules and regulations, not inconsistent with this chapter, to carry out effectually the purposes of this chapter. The rules and regulations shall be made and published in pamphlet form as provided by ORS 561.190.

(3) To set up the necessary machinery to make effective the provisions of this chapter, such as the purchase of supplies, printing, stationery and equipment, and the appointing of clerical help and assistance, all of which expense shall be audited and paid as a part of the general expense of the administration of this chapter.

587.050 Petition for inspection; appointment of inspector. Whenever 15 or more farmers operating farms tributary to any market center petition the department for the appointment of an inspector, the department forthwith shall appoint an inspector, provide for the method of inspection, and require the inspector to certify all warehouse certificates for grain inspected, and certify to the department all information that is required of him by the provisions of this chapter, or by the rules and regu-

lations laid down by the department. When appointed, the inspector holds his office at the will of the department.

587.060 Application for appointment of inspector. No inspector shall be appointed under the provisions of this chapter until a written application is first submitted to and approved by the department showing the applicant's experience and fitness to become an inspector of grain under the provisions of this chapter.

587.070 Bond of inspector; premiums for bonds. Any inspector appointed under this chapter shall furnish to the department a bond in the penal sum of \$2,000, conditioned upon the faithful performance of his duties under the provisions of this chapter and the rules and regulations prescribed by the department. The premium for the bond shall be paid out of the funds provided under this chapter and placed in the Department of Agriculture Account.

587.080 Fees and compensation of inspectors. The department shall, from time to time, fix the fees or compensation of inspectors for their services. The fees or compensations shall be based upon a certain sum per bushel of the grain inspected, and shall be paid monthly by the department by warrants drawn upon the Department of Agriculture Account and shall be charged by the department upon its books to the fund created by the provisions of this chapter.

587.090 Application for storage of grain. Whenever any inspector is appointed under this chapter, any owner of grain within his district desiring to store the same, shall make a written application to the department to be filed with the inspector, indicating where the grain is stored, the kind of structure in which stored and the encumbrance on the grain, if any. The application shall be signed and sworn to by the applicant. Whenever any grain is owned by more than one owner, the application shall be signed by all having an interest in the grain. In case such grain is mortgaged, the application for inspection shall be signed by the owner.

587.100 Making inspections; inspection certificates; issuing warehouse certificates.

(1) When application is made to the department for the inspection and sealing of grain, whether upon the farm or on or near any railroad right of way, or other suitable

place, the inspector shall, as soon as it is possible so to do, inspect the grain, and if the grain and the structure in which it is stored comply with the provisions of this chapter and regulations of the department, the inspector shall:

(a) Obtain the number and description of the bags of grain or measure and obtain the cubic feet content of the grain in the bin.

(b) Estimate the amount of grain in storage, sample the grain to secure an average sample, so as to obtain a required amount of grain to mix and divide into two samples.

(c) Number the bin and the samples to correspond, seal the bin with a seal provided by the department and place on the structure a printed copy of the penalty provided by subsection (3) of ORS 587.990 for the unlawful breaking of the seal.

(d) Forward to the laboratory, as directed by the department, one of the samples obtained from the bin, and obtain from the laboratory inspection certificates, in triplicate, which shall be dated, numbered and shall designate the owner's name, the number of the sample inspected, the kind of grain, and if mixed, the percentage of each kind, the dockage and, upon request, the moisture and protein content.

(2) As soon as inspection certificates are obtained by the local inspector, he shall issue negotiable warehouse certificates in triplicate, attaching to each a copy of the inspection certificate, and sign the warehouse certificates over the facsimile signature of the Director of Agriculture, and when so signed by the inspector the certificates are deemed to be issued by the proper authority of the department. Any certificate issued for grain owned by more than one person, or mortgaged, shall be issued in the name of such persons, including the mortgagee.

(3) An inspector has the right at any time to enter upon the premises where any grain is stored under the provisions of this chapter for the purpose of making an inspection thereof, and the acceptance of the warehouse certificate by the owner is consent to such entry and inspection.

587.110 Form and contents of warehouse certificate; approval by department. The form of the warehouse certificate issued under the provisions of this chapter shall be prepared and approved by the depart-

ment, and every certificate must embody within its written or printed terms the following:

(1) The consecutive number of the certificate.

(2) The date of issuance of the certificate.

(3) A description of the structure in which the grain is stored and the legal description of the premises where stored.

(4) A description of the grain, giving its grade, kind, variety, dockage, the protein content and moisture content if requested, the number of bags, if any, the amount thereof to be computed from the number of bags or if in bulk the cubical measure thereof.

(5) The name of the owner or owners, whether ownership is sole, joint or in trust, and the conditions of such ownership, as shown by the application.

(6) A statement of any and all encumbrances upon the grain as reported in the application.

(7) A statement that the grain will be delivered at elevator or on railroad; but it may be sold on track, to arrive or to be consigned at the option of the owner of the grain.

(8) The facsimile signature of the Director of Agriculture and the countersignature of the inspector.

(9) Notation of inspection fee.

587.120 Certificates to be in triplicate; disposition of original and copies. All warehouse certificates issued under the provisions of this chapter shall be in triplicate. The original shall be delivered to the owner, one copy shall be forwarded to the department by the inspector, and the other copy shall be filed in the office of the clerk and recorder of the county in which the grain is stored. Both copies of the certificate shall have plainly printed and stamped across the face thereof "Duplicate—No Value."

587.130 Filing and recording certificates. The inspector shall file in the office of clerk and recorder of the county wherein the grain is stored a copy of the warehouse certificate. The certificate shall be indexed under chattel mortgages and a filing fee of 25 cents shall be charged by the inspector and included in vouchers to the department. The fee shall be paid by the department and charged to the general expense of the administration of this chapter. The filing is

notice that the grain described therein is pledged to the redemption of an outstanding negotiable warehouse receipt.

587.140 Care by owner of stored grain; delivery to certificate holder; sale by owner. The owner of grain stored under the provisions of this chapter is charged with the due care of the grain and shall exercise that degree of care and diligence which an ordinary and prudent man would exercise with regard to similar property of his own. The owner shall also, upon demand of the holder of the certificate, deliver the grain to the market place indicated in the application without charge to the holder. No legal demand for the delivery of the grain can be made, however, upon the owner until the maturity of the obligation for which the certificate is pledged, or until the security becomes in any way impaired; but the owner of the grain in his discretion may sell the grain prior to the maturity of his obligation under the certificate.

587.150 Locking and sealing storage facilities; bond as waiver of. The locking up and sealing of any storage facility acceptable to the department hereby is waived, if and when the applicant has filed a warehouseman's bond, as a guaranty to the carrying out of the provisions of this chapter. Such bond shall be passed on and approved by the department.

587.160 Determination of amount of grain; warehouse certificate as evidence; owner liable for actual amount. Whenever the amount of grain certified to on the warehouse certificate has been computed by cubic measurements or by number of bags, the amount shall be deemed to be prima facie the amount of the grain, but the actual amount shall be determined by the actual weight thereof. The owner, however, is responsible and liable to the holder of the certificate, for the delivery of the amount of grain indicated on the certificate by actual weight, or the value of any shortage thereof.

587.170 Inspectors have powers of notary public. Inspectors appointed under

this chapter have the same powers as a notary public to take acknowledgments and administer oaths that are required either by the provisions of this chapter or by the rules and regulations laid down by the department.

587.180 False certification by inspector prohibited. No inspector shall wilfully certify falsely to any material fact in or concerning any warehouse certificate, or shall wilfully certify falsely to the department any material fact required to be certified under the provisions of this chapter, or by the rules or regulations of the department.

587.190 Expenses of administering chapter; disposition of inspection fees; continuing appropriation. The expenses of the administration of this chapter shall be paid by the owners of the grain, and the fee collected at the time of inspecting and sealing. The amount so paid shall be stated in the certificate. The fee for the inspection shall not exceed one-fourth cent per bushel, except that when the amount of grain offered for inspection by a single applicant is found to be less than 2,000 bushels the minimum fee shall be for 2,000 bushels. All such fees shall be paid to the department and deposited with the State Treasurer in the General Fund to the credit of the Department of Agriculture Account and shall constitute a continuing appropriation to be used in carrying out the provisions of this chapter.

587.990 Penalties. (1) Any person who states in the application provided for in ORS 587.090 any material fact known to be false and for the purpose of misleading the department or the inspector is guilty of a misdemeanor.

(2) Violation of ORS 587.180 is a felony and is punishable, upon conviction, by imprisonment for not less than two and one-half nor more than five years.

(3) Any person who, with the intent to defraud, breaks the seal of any structure in which grain is stored under the provisions of ORS 587.010 to 587.190 is guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than two years.

CHAPTERS 588 TO 595

[Reserved for expansion]

